Remarks

Reconsideration of this Application is respectfully requested. Claims 1-3, 5-13, 15-25, and 27-31 are pending in the application, of which claims 1, 7, 13, 18, 23, and 29 are independent. Based on the remarks set forth below, it is respectfully requested that the Examiner reconsider and withdraw all outstanding rejections.

Rejection under 35 U.S.C. § 103

The Examiner states, on page 4 of the Office Action, that claims 1-3, 5-13, 15-25, and 27-31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,505,048 to Moles *et al.* (hereinafter "Moles") and further in view of U.S. Patent No. 6,571,279 to Herz.

With respect to claim 1, the Examiner states that Moles substantially teaches Applicants' invention. The Examiner states, on pages 5-6 of the Office Action, that:

Moles discusses the claimed privacy preference as the privacy flag where a value that has been set determines whether information of the location of the mobile station is to be transmitted (col. 2, line 60 – col. 3, line 2 and col. 6, lines 56-61). In addition, Moles discloses the privacy flag can selectively set to cause wireless the mobile station to not transmit location information of the mobile station and can set a value of location privacy flag whether location information is to be transmitted (col. 6, line 56 – col. 7, line 5). Thus, obviously suggested sending location information if the privacy preference associated with the requestor has not been specified otherwise. However, Moles did not clearly explain the claimed requesting a privacy preference associated with the requestor if a privacy preference associated with the requestor has not been specified."

Applicants respectfully disagree with the Examiner. Instead of the Examiner indicating, as in the previous Office Action dated 1/25/2008, that Moles does not teach or suggest the claimed element of "if a privacy preference associated with the requestor has not been specified, requesting a privacy preference associated with the requestor from the user in

response to receiving the request," the Examiner now indicates that Moles teaches this element, but did not explain that it teaches it in a clear way. Applicants respectfully submit that the Examiner is now trying to put words into Moles that do not exist to suggest what Moles might have meant, but clearly did not say, to mold Moles into Applicants' invention, thus resulting in impermissible hindsight.

The Examiner further states that Herz in combination with Moles teaches the element of "if a privacy preference associated with the requestor has not been specified, requesting a privacy preference associated with the requestor from the user in response to receiving the request." Applicants respectfully disagree. The combination of Herz with Moles does not solve the deficiencies of Moles. Unlike the present invention, which teaches "if a privacy preference associated with the requestor has not been specified, requesting a privacy preference associated with the requestor from the user in response to receiving the request," Moles teaches a location privacy flag 272 and that:

> "[t]he user can selectively set the value of location privacy flag 272 by entering data through keypad 250 in response to a menu displayed on display unit 255. For example, a user can type the letters 'no' on keypad 250 in response to a question on a transmission status menu (not shown) on display unit 255 asking whether location information is to be transmitted. Later, if the user desires to allow the transmission of location information, the user can access the transmission status menu and type the letters 'yes' in response to the same question on the transmission status menu."

Moles, col. 6, line 60 – col. 7, line 3.

Thus, unlike the present invention, Moles requires the user to access the transmission status menu to answer the question of whether location information is to be transmitted.

The Examiner cites Herz, col. 13, lines 30-42, col. 14, line 15-17, col. 15, lines 4-6, 11-46, and col. 16, lines 1-7 as support for combining Herz with Moles to suggest the

element of "if a privacy preference associated with the requestor has not been specified, requesting a privacy preference associated with the requestor from the user in response to receiving the request." Applicants respectfully disagree. These sections of Herz teach User to User Introductions where user to user automatic matching techniques already used (i.e., similar user profiles, similar common interest venues, complimentary attributes within the user profiles in which there is complimentarity in knowledge or skill sets by which tasks and/or knowledge sharing is the primary objective, etc.) can be improved by using location enhanced information. Herz, col. 13, line 18 – col. 16, line 7. Herz teaches using a pseudonymn proxy server to mediate other users' access to a user's profile "based upon certain guidelines which dictate the terms and conditions by which an individual grants another individual access privileges to gain access to his/her user profile and further possibly introduce him/herself to the user based upon features and/or credentials constituting the user profiles of the requestor." Herz, col. 13, lines 25-35. Thus, Herz discloses privacy policies based on access to a user's user profile, not based on a request for a location property as recited in claim 1.

The next section of Herz cited by the Examiner states that "[t]here are numerous applications in which knowledge of location proximity between prospective parties which otherwise meet certain specified criteria for purposes of introduction, task and query, assignment or other applications in which matching similar or appropriately complementary individuals occurs are certainly too numerous to describe." Herz, col. 14, lines 13-19. Thus, this section of Herz only indicates that there are numerous applications for which knowledge of location proximity is useful in matching similar or appropriately complementary individuals. It does not teach or suggest "if a privacy

preference associated with the requestor has not been specified, *requesting* a privacy preference associated with the requestor from the user in response to receiving the request."

The next section of Herz cited by the Examiner discloses that "[q]ueries or task requirements in the form of requests may also be submitted in addition to (or in place of) the requestor's user profile." Herz, col. 15, lines 4-6. Thus, this section of Herz indicates additional information to be submitted for purposes of matching individuals, not "if a privacy preference associated with the requestor has not been specified, *requesting* a privacy preference associated with the requestor from the user in response to receiving the request," as recited in claim 1 of the present invention.

The next section of Herz cited by the Examiner discloses that:

> access control criteria dictating profile access and reachability of the user (via physical or virtual introduction or receipt of a message) may be controlled accordingly based upon the profile of the requestor (as is disclosed) and/or the nature of his/her request (or other message). Similarly, such access controls may be used to enable (or restrict) the ability of an explicitly identified user (UID) to be automatically identified upon his/her entering the same physical proximity of the requestor. As is suggested in the above referenced patent, a further means by which users may access user profiles includes (subject to accessee approval), assigning of user profiles (which are typically pseudonymized) according to appropriate cluster (or attribute) criteria (including location criteria) and the construction of conveniently navigable hierarchical menus. Virtual tags may also be ascribed by users to physical objects (or potentially even other users) where an XML representation is constructed with a (future) location tag which can be automatically indexed by future users at that location. Such information could relate to a variety of rating criteria (which could be averaged across users) and/or annotations (potentially even hazards). It may be associated with rules dictating the user's disclosure policy with respect to which user(s) or user type may gain access to which information (e.g., who can access the identity or profile information associated with the tag.)

Herz, col. 15, lines 11-36.

Unlike the present invention, this section of Herz discloses that profile access and the reachability of the user (via physical or virtual introductions, or receipt of a message) may be controlled based upon the profile of the requestor and the nature of the request, not "if a privacy preference associated with the requestor has not been specified, *requesting* a privacy preference associated with the requestor from the user in response to receiving the request" as recited in claim 1 of the present invention.

The last section of Herz cited by the Examiner states that:

> [i]f a vendor meets certain user pre-defined access criteria via features and credentials, user profile data may be accessed in accordance with the user's privacy policy. Data mining tools can be used to enable advertisers to identify relevant features. Advertisers may enter rules that specify how users are to be targeted, based on desired criteria such as those pseudonyms that posses certain attributes."

Herz, col. 16, lines 1-7.

Thus, unlike the present invention, this section of Herz discloses vendor access to user profile data based on the user's privacy policy and that data mining tools can be used to enable advertisers to identify relevant features, not "if a privacy preference associated with the requestor has not been specified, *requesting* a privacy preference associated with the requestor from the user in response to receiving the request," as recited in claim 1 of the present invention.

Thus, neither Moles nor Herz, separately or in combination, teach the element of "if a privacy preference associated with the requestor has not been specified, requesting a privacy preference associated with the requestor from the user in response to receiving the request", as recited in claim 1 of the present invention.

For at least these reasons, independent claim 1, and the claims that depend therefrom (2, 3, 5, and 6), are patentable over Moles and Herz. Independent claims 7, 13,

18, 23, and 29 include a similar claim element to that argued above with respect to claim 1. Thus, for at least the reasons argued above, claims 7, 13, 18, 23, and 29, and the claims that depend therefrom (claims 8-12, 15-17, 19-22, 24-25 and 27-28, and 30-31, respectively) are also patentable over Moles and Herz. Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all currently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Response is respectfully requested.

Respectfully submitted,

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Dated: <u>December 29, 2008</u>

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